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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,718	08/09/2002	Wyatt Price Hargett JR.	1700.80B	4227
21176	7590	08/25/2004	EXAMINER	
SUMMA & ALLAN, P.A. 11610 NORTH COMMUNITY HOUSE ROAD SUITE 200 CHARLOTTE, NC 28277			BRUENJES, CHRISTOPHER P	
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/064,718	Applicant(s) HARGETT ET AL.	
	Examiner Christopher P Bruenjes	Art Unit 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-8,13-15,36 and 38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 is/are allowed.
- 6) ☒ Claim(s) 1,4-8,13-15 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 26, 2004 has been entered.

WITHDRAWN REJECTIONS

2. The 35 U.S.C. 102 rejections of claims 1, 4-6, 36, and 38 as anticipated by Bennett of record in Paper #7, Pages 4-6 Paragraph 5, have been withdrawn due to Applicant's arguments in the Paper filed April 26, 2004.

3. The 35 U.S.C. 103 rejections of claims 7-8 and 13-15 over Bennett of record in Paper #7, Pages 6-7 Paragraph 6, have been withdrawn due to Applicant's arguments in the Paper filed April 26, 2004.

NEW REJECTIONS

Specification

4. The amendment filed April 26, 2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the limitation that the inner layer "consists essentially of" a chemically inert pressure resistant structural polymer is new matter, because the original disclosure only states that the inner layer comprises a chemically inert pressure resistant structural polymer.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Objections

5. Claims 4-5, 7-8, and 13-15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

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The dependent claims broaden the parent claim rather than narrow the claim, because the claims add extra layers to the sleeve material, when the parent claim states that the sleeve material "consists essentially of" only those three layers.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 4-8, 13-15, and 36 are rejected under 35

U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitation that the inner layer "consists essentially of" a chemically-inert pressure resistant structural polymer described in claims 1 and 38 are new matter because the original disclosure fails to teaches the inner layer as being formed of only a chemically-inert pressure resistant structural polymer.

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Whenever the inner layer composition is discussed it is presented as a "comprising" limitation. Therefore, the claims limiting the scope of the inner layer to only a chemically inert pressure resistant structural polymer and ingredients that don't materially affect the basic and novel properties of the claimed structure presents new matter in the application.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 13-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 13-15 are dependent on claim 10, which has been cancelled. Claims cannot be dependent on cancelled claims.

Allowable Subject Matter

8. Claim 38 is allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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The closest prior art is Giraud and Bennett. Giraud fails to teach a microwave-transparent pressure resistant reaction cylinder. Giraud teaches that the composite material is a pillar and therefore, teaches a way from using the composite material to surround a microwave-transparent pressure resistant reaction cylinder. Bennett fails to teach the wound cylindrical layer of "contiguous yarns". Bennett teaches a different fiber-reinforced structure, which teaches away from the claimed invention, because the Bennett vessel is intended to distort under high pressures as a safety feature. Once the Bennett vessel is distorted, however, it is no longer useful. The claimed invention provides an improvement over the Bennett structure by using contiguous yarns that will not distort and therefore the vessel can be reused.

9. Claims 5-8 and 13-15 would be allowable if rewritten to overcome the claim objections and to include all of the limitations of the base claim and any intervening claims and the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action are overcome.

The following is a statement of reasons for the indication of allowable subject matter:

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The closest prior art is Giraud and Bennett. Giraud fails to teach the first polymer comprising polyimide, the inner or outer layers formed of tetrafluoroethylene, or adding multiple concentric layers of polymer and textiles between the inner and outer polymeric layers. Giraud is non-analogous art and there is no motivation to modify Giraud to arrive at the limitations listed above for an obviousness rejection. Bennett fails to teach the wound cylindrical layer of "contiguous yarns". Bennett teaches a different fiber-reinforced structure, which teaches away from the claimed invention, because the Bennett vessel is intended to distort under high pressures as a safety feature. Once the Bennett vessel is distorted, however, it is no longer useful. The claimed invention provides an improvement over the Bennett structure by using contiguous yarns that will not distort and therefore the vessel can be reused.

ANSWERS TO APPLICANT'S ARGUMENTS

10. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1, 4, and 36 as anticipated by Giraud have been fully considered but they are not persuasive.

In response to Applicant's argument that Giraud fails to teach the inner layer "consisting essentially of" a chemically-inert pressure-resistant structural polymer, absent a clear

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indication in the specification or claims of what the basic and novel characteristics actually are, "consisting essentially of" will be construed as equivalent to "comprising". See *PPG*, 156 F.3d at 1355, 48 USPQ2d at 1355. In this case, the only properties as shown by the specification and/or claims that are basic characteristics of the inner layer are that the layer should be chemically inert and pressure-resistant. The glass beads added to the resin (C) forming the inner layer would not materially affect the properties of the polymer with regard to the polymer being a chemically inert pressure-resistant structural polymer. One of ordinary skill in the art would have recognized that the resin with or without glass beads would still be chemically inert and pressure-resistant because the chemical composition of the resin itself would not be changed. Furthermore, if an applicant contends that additional materials in the prior art are excluded by the recitation of "consisting essentially of", applicant has the burden of showing that the introduction of the additional component would materially change the characteristics of applicant's invention. See *In re De Lajarte*, 337 F.2d 870, 143 USPQ 256 (CCPA 1964).

11. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1, 4-6, 36, and 38 as anticipated by

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Bennett have been considered but are moot since the rejections have been withdrawn.

12. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 7-8 and 13-15 over Bennett have been considered but are moot since the rejections have been withdrawn.

Conclusion

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes
Examiner
Art Unit 1772

CPB
August 13, 2004

Ch-B

[Signature]
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

8/16/04